RECEIVED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
Pro Se Department
★ NOV 24 2020 ★
LONG ISLAND OFFICE

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ NOV 24 2020 ★
LONG ISLAND OFFICE

November 24, 2020.

Honorable Joan M. Azrack.
United States District Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip
New York, 11722.

Re: ***S.W. et al v. Garden City Union Free School District et al.***
Docket No: **18 CV 1890 (JMA) (ARL)**

Dear Judge Azrack,

Re: The in-person Settlement Conference 12/2/2020 at 10:30 AM before Judge Joan M. Azrack in Courtroom 920 of the Long Island Courthouse:

1) AWAITING DOCUMENTS FROM DEFENDANTS AND OFFICE OF CIVIL RIGHTS

We are forced to ask your honor for a delay of one month **because we are still waiting** for the most critical documents related to this case from a pending FOIL request from defendants' who advised us it will not be fulfilled until Dec 15. ***(Exhibit A & B).***

In addition, the Office of Civil Rights (OCR) is investigating a new complaint against the defendants since they submitted false testimony and evidence to OCR, attributed to the Garden City Police Dept, (GCDP), which GCPD refutes, and states never happened. (GCPD denial of defendants' testimony was obtained via FOIL request in October 2020). OCR Case # . 02-21-1043 - Garden City Public Schools.

OCR transcripts we obtained in October 2020 via FOIA request shows that then-Superintendent Robert Ferisen advised his staff to destroy all documents related to the suspension and co-defendant Peter Osroff's involvement in inappropriate questions of male students,,, or "if we get a subpoena , we will be in deep sh*t".

'Finally, we have a new FOIL request with GCPD for the documents and information related to Osroff's false testimony regarding GCPD, and all contact and correspondence between GCUFSD, Superintendent, Commissioner regarding the false evidence and statements defendants submitted to this court, and used to falsely suspend our son.

2) **FERPA Hearing** - Our requests to defendants, Superintendent Sinha Kusum for a FERPA hearing to review the **new, concrete** evidence obtained from GCPD and OCR transcripts for a local hearing to challenge the verifiably "false and misleading" statements and evidence at the core of this case, was denied this month on disingenuous grounds. ***(Exhibit C).***

We asked defendants to please grant this FERPA hearing within the District to avoid wasting your Honor's time and court resources, because the **new** evidence we have is so blatant and concrete. Superintendent Kusum's **denial** for a FERPA hearing, on grounds that her predecessor denied a FERPA hearing two years ago, **is completely irrelevant to our new request based on new evidence,** and part of their obvious strategy to drag this case out, and force us to spend money amending the compliant, instead of simply reviewing the FOIA/FOIL results and retracting the false testimony, statements, and fabricated evidence, which are part of the permanent OCR record. (see ***Exhibit C*** denial by Superintendent Kusum, where she cites irrelevant and absurd denial two years ago by former Superintendent Feirsen, who had ordered staff to shred all the records, according to staff testimony to OCR). Obviously Ferisen did not want a hearing to review the documents, if he ordered them to be destroyed.

3) **COVID ISSUES**

There is a strong possibility I will need to return to my mother in South Africa before borders close again. I am monitoring that situation daily, but it is not looking good, as travel ban may be imminent.

Also, our son, NW is home from college. but under quarantine for two weeks due to NY regulations , and is also suffering lung issues due to possible COVID exposure from hall mates, who were diagnosed with it. We await outcome of test and a pulmonologist exam Friday.

Hon. Joan M. Azrack

IN SUMMARY:

We are acting diligently and pro-actively in good faith.

Defendants clearly have been demonstrably acting in extreme bad faith, lying under oath, submitting false testimony, creating fake evidence they attributed to the GCPD police which does not exist according to FOIL, shredding pertinent documents "in case of subpoena", and delaying and denying responses to FOIL requests. The OCR process of investigation is apparently longer due to pandemic.

We need these documents. The core of this case is that defendants suspended our son on false evidence, contrived allegations which were never verified because we filed a complaint against the Middle School principal for discriminating against on our son who has a learning disability. They forced him out of the District, he lost his 8th grade, and was denied FAPE.

Based on the new FOIL evidence from GCPD, and the OCR transcripts, we now know that the defendants' stated reasons for suspending our son, forcing him from school district, was false, fabricated and GCPD deny it all. There are zero documents to support defendants' testimony and non existent 'evidence' used to suspend our son. This is core of the case, and we need those documents. Defendants could easily resolve this by reviewing the FOIL evidence and retracting the false allegations and damaging lies they submitted to OCR and court but they deny all requests for meetings, or internal hearings.

We are working with the HOFSTRA legal team on option of an amended complaint, and when we get documents, will know our options, but the plaintiff's delays in providing documents, and their denial of local hearing to review new evidence, hinders the process and our goal of justice and resolving this case fairly.

For all of the above reasons, we respectfully request a delay so we can get the necessary documents.

Respectfully

SW CW NW
cc L. Silverman

EXHIBIT A.

GARDEN CITY PUBLIC SCHOOLS
56 Cathedral Avenue • Garden City, NY 11530-0216
Tel: (516) 478-1040 Fax (516) 294-1045

Dana E. DiCapua
Records Access Officer

Inspiring Minds
Empowering Achievement
Building Community

November 18, 2020

Mrs. Colleen Wende
colleen_connaughton@yahoo.com

Re: Written Acknowledgement of Freedom Of Information Law Request

Dear Mrs. Wende:

I am in receipt of your e-mail dated November 9, 2020 in which you submitted a Freedom of Information Law ("FOIL") request for:

1. *Please specify: name of informant, as we were advised by Peter Osroff and Gina Christel, when we arrived after the 2.5 hour interrogation of our then 12 year old son, that GCPD had advised GCUFSD that our son was "under investigation" and that GCPD was the "informant" and that was why Osroff and Christel were permitted to interrogate a 12 yr od (with leading questions) and search his locker (publicly) on Friday Nov 6, 2015. As indicated GCPD denied.*

2. *Documentation of Searches*
The authorized school official conducting the search shall be responsible for promptly recording the following information about each search:
   - *a. Name, age and grade of student searched;*
   - *b. Reasons for the search;*
   - *c. Name of any informant(s);*
   - *d. Purpose of search (that is, what item(s) were being sought);*
   - *e. Type and scope of search;*
   - *f. Person conducting search and his or her title and position;*
   - *g. Witnesses, if any, to the search;*
   - *h. Time and location of search;*
   - *i. Results of search (that is, what item(s) were found);*
   - *j. Disposition of items found;*

k. Time, manner and results of parental notification.

We anticipate providing a response to you on or before December 16, 2020. If such records exist and/or are accessible under FOIL, you will be advised as to the payment of fees.

Very truly yours.

Dana DiCapua
Records Access Officer

/kmp

EXHIBIT B.

GARDEN CITY PUBLIC SCHOOLS

56 Cathedral Avenue • Garden City, NY 11530-0216
Tel: (516) 478-1040 Fax (516) 294-1045

Dana E. DiCapua
Records Access Officer

Inspiring Minds
Empowering Achievement
Building Community

November 18, 2020

VIA -EMAIL – colleen_connaughton@yahoo.com

Mrs. Colleen Wende

Re: Freedom of Information Law Request –
Dated October 12, 2020 - Received October 13, 2020

Dear Mrs. Wende:

In follow up to the District's correspondence dated October 20, 2020, this letter serves as the District's response to your Freedom of Information Law ("FOIL") request dated October 12, 2020 and received by the District on October 13, 2020 entitled "FOIL Request – Osroff Penis Suspension records/e-mail" for the following records:

1. all GCUFSD documents, records, e-mail request from Feirsen for destruction. (we have copies, but want to see official records) of GCMS Peter Osroff's inappropriate penis suspension of April 2015.

2. all e-mail between Osroff, Feirsne (sic) and Marr regarding destruction of all Osroff's penis suspensions records, where he inappropriately interrogated a male 7th grader about penises and male body parts. Feirsen implied in OCR interview that Osroff's inappropatiae (sic) sexual obsession/comments led to framed suspension of same student in 2016.

3. We want copy of Ferisen (sic) message to Marr (according to testimony) with Dr. Ferisen's (sic) fierce reaction to the so called penis suspension and directed Marr to shred all evidence related to this, otherwise they would be in " deep sh**t. "

Please be advised that Requests No. 1 - 3 above are hereby denied. Your requests are denied to the extent they require the District to make "a series of judgments based on opinions, some of which would be subjective, mental impressions, the strength of one's memory and perhaps legal research." In this regard the Committee on Open Government has opined that a request that calls for interpretation or judgment by the agency in fulfilling a request for a record is not a request for records as envisioned by FOIL. See FOIL-AO-12012 (2000).

You have the right to appeal any denial of your request. Appeals should be filed in writing by delivering a copy of the request and a copy of the denial within 30 days after the denial. to the Superintendent of Schools of the Garden City Union Free School District. 56 Cathedral Avenue. Garden City. New York. 11530. You will be advised in writing of the Superintendent's decision of your appeal within ten (10) business days following receipt of any written appeal. See Public Officers Law § 89(4)(a).

Sincerely.

Dana DiCapua
Records Access Officer

c: Kusum Sinha, Ed. D.

EXHIBIT C.

Re: FERPA HEARING

From: colleen connaughton (colleen_connaughton@yahoo.com)

To: lsilverman@silvermanandassociatesny.com; steve_wende@yahoo.com; boe@gcufsd.net; sinhak@gcufsd.net

Date: Tuesday, November 24, 2020, 11:47 AM EST

Dear Superintendent, Mr. Holub,

Again, you do you seen to understand the request.

I understand why a FERPA hearing would be uncomfortable for you, but your denial is based on ludicrously false grounds.

We are not challenging the decision, but instead challenging the "false and misleading": statements and records, which led to the decision.

These are not the same things.

AGAIN, WE NOT CHALLENGING A SUBSTANTIVE DECISION, OR OPINION - WE ARE CHALLENGING THE FALSE , MISLEADING STATEMENTS AND EVIDENCE OSROFF ATTRIBUTED TO GCPD, WHICH THEY REFUTE.

This is a new FERPA request and has nothing to do with Dr. Feirsen. We did not ask him to review FOIL evidence from GCPD or OCR transcripts refuting false statements, because we obviously did not have them last year, since only procured them in October 2020.

Do you understand? New evidence, new request fo FERPA hearing, different appeal, new evidence to refute statements, not substantive decision.

There is new evidence obtained in October 202 from GCPD stating that Dr. Osroff's lied to OCR and, indirectly to federal court, proving that Osorff suspended our son vindictively and used false grounds and never verified evidence to suspend, harass and emotionally abuse him.

Please advise date of FERPA hearing, and BOE's new investigation of false statements reported to Dr. Groveman (in his independent investigation paid for by taxpayers), and Dr. Feirsen's order to shred evidence and documents related to this case.

Please advise date of FERPA hearing.

Why would you insist on wasting Judge Azrack's time and court resources, when you could simply review the stark evidence proving the records are false, locally, and then rescind the false testimony GCUFSD submitted to OCR and court?

Thanks, Colleen Wende

On Friday, November 13, 2020, 06:51:28 PM EST, Sinha, Kusum <sinhak@gcufsd.net> wrote:

Dear Ms. Wende,

This is in response to your email below and all related emails sent following my November 10, 2020 response to your recent requests for a FERPA hearing. I wish to clarify that I am not denying your prior requests for a FERPA hearing, but rather your new request for a FERPA hearing. My denial is based upon the following relevant guidance from the United States Department of Education regarding amendment of education records:

> "However, while the FERPA amendment procedure may be used to challenge facts that are inaccurately recorded, **it may not be used to challenge a grade, an opinion, or a substantive decision made by a school about an eligible student.** FERPA was intended to require only that schools conform to fair recordkeeping practices and not to override the accepted standards and procedures for making **academic assessments, disciplinary rulings, or placement determinations.** Thus, while FERPA affords **eligible students** the right to seek to amend education records which contain inaccurate information, this right cannot be used to challenge a grade or an individual's opinion, **or a substantive decision made by a school about a student.** Additionally, if FERPA's amendment procedures are not applicable to an eligible student's request for amendment of education records, the school is not required under FERPA to hold a hearing on the matter. " (Emphasis added).

By letter to you dated November 9, 2016, Dr. Feirsen relied upon the same guidance to deny your request for a FERPA hearing at that time. Since you continue to challenge the opinions and substantive decisions made by middle school personnel in connection with disciplinary decisions made during the 2015-2016 school year, FERPA's amendment/hearing procedures are not applicable and the District will not hold a FERPA Hearing concerning this matter.

Thank you.

Kusum

Kusum Sinha, Ed.D.
Superintendent of Schools
Garden City Public Schools
Garden City, NY 11530
(516) 478-1010

From: colleen connaughton <colleen_connaughton@yahoo.com>
Sent: Thursday, November 12, 2020 4:42 PM
To: Lewis Silverman <lsilverman@silvermanandassociatesny.com>; Steve Wende <steve_wende@yahoo.com>; Sinha, Kusum <sinhak@gcufsd.net>; Board of Education <BOE@gcufsd.net>; Commissioner Kenneth Jackson <kjackson@gardencityny.net>
Subject: Re: FERPA HEARING

WARNING: This email originated from outside of GCUFSD. Do not click links or open attachments unless you recognize the sender and know the content

is safe. If this email claims to be from a GCUFSD employee, IT IS NOT. Delete it immediately.

Dear Superintendent,

Again, please confirm that you understand that our recent request for a FERPA hearing to you sent last month, has nothing to do with your e-mail dated Sept 3, 2019.

This is obviously a new request, based on new evidence, challenging different statements in the record, namely those pertaining to GCPD and false statements and actions in the our son's record attributed to GCPD.

It is disingenuous and unethical of you to use an old request, as basis to deny a NEW request for a FERPA hearing.

In addition, respectfully Superintendent, you do not have the right to deny a FERPA hearing, or refuse to meet us to review GCPD FOIA results due to "litigation". You work for the Village of GC, you do not answer to stockholders, you answer to residents, As leader of the school district, you are supposed to set an ethical example.

Please confirm, for the record, why litigation allows you to deny us our federal rights, and deny us our rights under BOE rules, to ask you for a FERPA hearing, or asking you review new evidence? Please explain that law?

I am sure your employer, GC taxpayers, would prefer you to review evidence, instead paying attorneys to continue to defend Osroff.

Please confirm that you understand the difference between last year's FERPA request and this year. We are also asking local Congressional office to follow up with you new request, based on FOIL evidence from GCPD.

Thank you, Colleen Wende

p.s. Please advise date of FERPA hearing. Mr. Silverman please explain the difference in this new FERPA request.

On Tuesday, November 10, 2020, 04:16:44 PM EST, Sinha, Kusum <sinhak@gcufsd.net> wrote:

Dear Ms. Wende,

In addition, you do not have the right to deny a FERPA hearing, or refuse to meet us due to litigation. You work for the Village of GC, you do not answer to stockholders, you answer to residents,

Please confirm, for the record, why litigation allows you to deny us our federal rights, and rights under BOE rules, to ask you for a FERPA hearing, or asking you review new evidence.

I am sure your employer, GC taxpayers, would prefer if you could review evidence, instead paying attorneys.

In response to your email below and related emails sent on November 4 and November 9, 2020, be advised as follows. As stated in my email to you dated September 3, 2018, which was in response to your previous requests for a FERPA Hearing or investigation into alleged "false and misleading details in your son's discipline file", I reiterate that your requests in this regard were addressed and denied by Dr. Feirsen in his correspondence to you dated November 9, 2016, November 30, 2016 and April 21, 2017. You also made similar requests of Dr. Groveman and by email to you dated December 18, 2017, Dr. Groveman responded by referencing Dr. Feirsen's prior correspondence and denied the request to overturn Dr. Feirsen's decision.

My prior response to you still stands and for the reasons stated by Dr. Feirsen, the District will not hold a FERPA Hearing in connection with your allegations. I continue to remind you that your claims are currently the subject of pending litigation and upon advice of counsel, I will not comment further. Future emails to the District related to your allegations and requests for a FERPA Hearing will not be responded to. Thank you.

Kusum

Kusum Sinha, Ed.D.
Superintendent of Schools
Garden City Public Schools
Garden City, NY 11530
(516) 478-1010

From: colleen connaughton <colleen_connaughton@yahoo.com>
Sent: Monday, November 9, 2020 4:29 PM
To: Sinha, Kusum <sinhak@gcufsd.net>; Lewis Silverman <lsilverman@silvermanandassociatesny.com>; Steve Wende <steve_wende@yahoo.com>
Subject: FERPA HEARING

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ NOV 24 2020 ★
LONG ISLAND OFFICE

USMS

Clerk of the Court
Federal Court
Eastern District
Attn: Judge Azrack
Case # 18 CV 1890

* Plus File For
Pro Se Representative
SW (W|NW) *

Urgent